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Attorney for Plaintiffs

United States District Court
Eastern District of Washington
Before the Hon. Salvador Mendoza, Jr.

Reginald Blair, et al.,

Plaintiffs;

v.

Soap Lake Natural Spa & Resort
LLC, et al.,

Defendants.

No. 2:19-CV-00083-SMJ

Joint Motions to Dismiss Claims
with Prejudice and without
Costs or Fees to either Party and
to Drop Plaintiff Bean as a Party

June 22, 2022
Without oral argument

Plaintiff Bean and Defendants, hereafter collectively "the moving
Parties," state as follows:

A. Recitals

WHEREAS, Plaintiffs filed their most recent complaint on June
3, 2019, alleging certain claims against Defendants in this action;

1 WHEREAS, Defendants answered that complaint on February
2 24, 2019 and asserted particular counter-claims against Plaintiffs in
3 this action;

4 WHEREAS, Plaintiff Bean and Defendant Soap Lake Natural
5 Spa & Resort LLC and Defendant Xiao have resolved their differences
6 and seek dismissal of Plaintiff Bean's claims against Defendants and
7 dismissal of Defendants counter-claims against Plaintiff Bean;

8 WHEREAS, Plaintiff Blair, Plaintiff Sharp and Defendants have
9 *not* resolved their differences and intend to proceed to trial on their
10 remaining claims.

11 **NOW, THEREFORE,**

12 1. Plaintiff Bean moves this Court under Fed. R. Civ. P.
13 41(a)(1)(A)(ii)¹ to dismiss all of her remaining claims against
14 Defendant Soap Lake Natural Spa & Resort LLC and Defendant Xiao
15 with prejudice and with each party to bear their own costs and fees.

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18 ¹ Although Rule 41 only refers to dismissing an "action," the Ninth Circuit has
19 made it clear that Rule 41 may also be used to dismiss some, but not all, claims
20 and dismiss some, but not all, parties. *See e.g., Wilson v. City of San Jose*, 111
F.3d 688, 692 (1997) ("The plaintiff may dismiss some or all of the defendants,
or some or all of his claims, through a Rule 41(a)(1) notice.")

1 Defendant Soap Lake Natural Spa & Resort LLC and Defendant Xiao
2 waive their right to object to or respond to this motion.

3 2. Defendant Soap Lake Natural Spa & Resort LLC and
4 Defendant Xiao move this Court under Fed. R. Civ. P. 41(a)(1)(A)(ii)
5 and Fed. R. Civ. P. 41(c) to dismiss all of their remaining counter-
6 claims against Plaintiff Bean with prejudice and with each party to
7 bear their own costs and fees. Plaintiff Bean waives her right to
8 object to or respond to this motion.

9 3. Plaintiff Bean and Defendants jointly move this Court to
10 drop Plaintiff Bean as a party to this action under Fed. R. Civ. P. 21
11 because there are no remaining claims for Plaintiff Bean to
12 prosecute or defend.

13
14 **IT IS SO STIPULATED AND MOVED** this 23rd day of May 2022.

15 s/James E. Baker

16 James E. Baker
17 WSBA #9459
Attorney for Defendants
Moberg Rathbone Kearns,
P.S.

s/Adam R. Pechtel

Adam R. Pechtel
WSBA #43743
Attorney for Plaintiff
Bean
Pechtel Law PLLC

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B. Order

IT IS ORDERED:

1. Plaintiff Bean and Defendants' *Joint Motions to Dismiss Claims with Prejudice and without Costs or Fees to either Party and to Drop Plaintiff Bean as a Party*, ECF No. ___, is **GRANTED**.

2. All Plaintiff Bean's remaining claims against Defendants are **DISMISSED WITH PREJUDICE**, with all parties to bear their own costs and attorney fees.

3. All Defendant Soap Lake Natural Spa & Resort LLC and Defendant Xiao's remaining counter-claims against Plaintiff Bean are **DISMISSED WITH PREJUDICE**, with all parties to bear their own costs and attorney fees.

4. Plaintiff Bean is **DROPPED** as a party to this action.

5. All hearings and other deadlines are **STRICKEN** only insofar as they pertain to Plaintiff Bean.

6. The Clerk's Office is directed to **DROP** Plaintiff Bean as a party to this action.

IT IS SO ORDERED.

The Clerk's Office is directed to enter this Order and provide copies to all counsel.

1 DATED this _____ day of _____ 2022.

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3 _____
4 Hon. Salvador Mendoza, Jr.
5 United States District Judge
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SERVICE CERTIFICATE

I hereby certify that May 23, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which in turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the case who are registered users of the CM/ECF system. The NEF for the foregoing specifically identifies recipients of electronic notice. I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: N/A.

s/Adam R. Pechtel

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